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Attorneys for Defendant  
Stark Investment Company, a  
California general partnership

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PALMTREE ACQUISITION  
CORPORATION, a Delaware corporation,

Plaintiff,

vs.

MICHAEL R. NEELY, an individual, PERRY  
J. NEELY, an individual; GARY NEELY, an  
individual; MICHAEL R. NEELY, PERRY J.  
NEELY and GARY NEELY dba MIKE'S ONE  
HOUR CLEANERS; CHARLES FREDERICK  
HARTZ dba PAUL'S SPARKLE CLEANERS;  
CHARLES F. HARTZ, an individual;  
MULTIMATIC CORPORATION, a New  
Jersey corporation; WESTERN STATES  
DESIGN, a California corporation;  
MCCORDUCK PROPERTIES LIVERMORE,  
LLC, a Delaware limited liability company  
individually and as the successor to JOHN  
MCCORMICK, KATHLEEN MCCORDUCK,  
PAMELA MCCORDUCK, SANDRA  
MCCORDUCK MARONA, and IMA  
FINANCIAL CORPORATION, a California  
corporation; STARK INVESTMENT  
COMPANY, a California general partnership;  
GRUBB & ELLIS REALTY INCOME  
TRUST, LIQUIDATING TRUST, a California  
trust; and DOES 1-20, inclusive,

Defendants.

Case No. CV 08 3168 MHP

**STIPULATION AND ~~PROPOSED~~  
ORDER] CONTINUING CASE  
MANAGEMENT CONFERENCE**

**Hon. Marilyn H. Patel**

**Date: June 28, 2010**

**Time: 2:00 p.m.**

**Courtroom: 15, 18<sup>th</sup> floor**

1 THE KIRBERG CORPORATION, formerly  
2 known as MULTIMATIC CORPORATION, a  
3 New Jersey corporation; and STARK  
INVESTMENT COMPANY, L.P., a California  
limited partnership,

4 Third Party Plaintiffs,

5 v.

6 MELINDA ELLIS EVERS, Successor Trustee  
7 of the Harold A. Ellis, Jr. Revocable Inter Vivos  
Trust Dated July 13, 2000; MARIAN L. ELLIS,  
8 Trustee of the Marian L. Ellis Revocable Inter  
Vivos Trust Dated October 31, 2003; MARIAN  
9 L. ELLIS, an individual; JAMES R. PROUD,  
an individual; DEAN BANKS, an individual;  
10 EMMETT R. DEMOSS JR., an individual;  
JOHN E. HYJER, an individual; THE  
11 ANDERSON MARITAL TRUST dated  
February 28, 1979, as amended and restated  
12 August 31, 1994; and THE ANDERSON TAX  
DEFERRAL TRUST, dated February 28, 1979,  
13 as amended and restated August 31, 1994,

14 Third Party Defendants.

15  
16 The parties who have appeared in the above-captioned action have met and conferred and  
17 jointly submit the following Stipulation and Proposed Order continuing the Case Management  
18 Conference currently scheduled for June 28, 2010 at 2:00 p.m. to September 20, 2010 at 4:00 p.m.

19 As explained more fully below, the Plaintiff and Defendants, with the exception of Grubb  
20 & Ellis Realty Income Trust, Liquidating Trust, ("Responding Parties") have been mediating this  
21 matter with Timothy Gallagher, Esq., along with other potentially responsible parties, and are  
22 continuing to do so, while simultaneously working cooperatively to respond to the Regional Water  
23 Quality Control Board's ("RWQCB") directives.

24 1. On June 19, 2010, Mediator Gallagher submitted an Interim Case Management  
25 Statement to the Court, which was thereafter filed on June 22, 2010 and appears as document 67 on  
26 the Court's docket.

27 2. In Mediator Gallagher's Interim Case Management Statement, he described the  
28 Responding Parties' substantial and continuing progress in settling among themselves and with

1 other potentially responsible third parties.

2 3. Mediator Gallagher also described the Responding Parties' ongoing cooperative  
3 efforts at site characterization and compliance with the RWQCB's directives. As Mediator  
4 Gallagher stated, the Responding Parties recently submitted a Work Plan to the RWQCB which  
5 will be carried out this year. It is anticipated that the final report will be submitted in the second  
6 quarter of 2011 and thereafter, a Remedial Action Plan will be submitted to the RWQCB for  
7 approval.

8 4. Because of the ongoing site characterization work, the Responding Parties do not  
9 yet have a complete understanding of the anticipated remediation costs, which is needed by some  
10 of the Responding Parties in order to agree on final settlement terms. The Responding Parties,  
11 however, are diligently working with their technical consultants and the RWQCB to determine, as  
12 quickly as possible, the best course of action for remediating the site.

13 5. Even though the cost figures necessary for a final settlement is not currently known,  
14 the Responding Parties are continuing to advance discussions among themselves and resolve  
15 matters with other parties. The Responding Parties would like to resolve this case by mediation  
16 but is cognizant of the Court's desire for a schedule. The Responding Parties believe that a  
17 continuation of the currently scheduled case management schedule to September 20, 2010 will  
18 allow them to prepare a realistic plan and schedule to present to the Court at that time.

19  
20 DATED: June 25, 2010

GONSALVES & KOZACHENKO

21  
22 By: /s/ Selena P. Ontiveros  
23 Selena P. Ontiveros

24 Attorneys for Defendant & Third Party  
25 Plaintiff Stark Investment Company, a  
26 California general partnership  
27  
28

1 DATED: June 25, 2010

The Costa Law Firm

2 By: /s/ Daniel P. Costa

3 Daniel P. Costa

4 Attorneys for Defendant & Third Party  
5 Plaintiff Stark Investment Company, a  
6 California general partnership

7 DATED: June 25, 2010

Cox, Castle & Nicholson, LLP

8 By: /s/ Chad Hales

9 Chad Hales

10 Attorneys for Plaintiff  
11 Palmtree Acquisition Corporation

12 DATED: June 25, 2010

BASSI, EDLIN, HUIE & BLUM LLP

13 By: /s/ Noel Edlin

14 Noel Edlin

15 Attorneys for Defendants  
16 Michael R. Neely, Perry J. Neely, and  
17 Gary Neely, dba Mike's One Hour Cleaners

18 DATED: June 25, 2010

Dongell Lawrence Finney, LLP

19 By: /s/ Thomas A. Vandenberg

20 Thomas A. Vandenberg

21 Attorneys for Defendant & Third Party  
22 Plaintiff The Kirrberg Corporation f/k/a  
23 Multimatic Corporation

24 DATED: June 25, 2010

Rogers Joseph O'Donnell

25 By: /s/ Robert C. Goodman

26 Robert C. Goodman

27 Attorneys for Defendant Charles Frederick  
28 Hartz, dba Paul's Sparkle Cleaners

1 DATED: June 25, 2010

Foley McIntosh Frey & Claytor

2 By: /s/ James D. Claytor

3 James D. Claytor

4 Attorneys for Defendant Western State Design

5 DATED: June 25, 2010

Gordon, Watrous, Ryan, Langley, Bruno &  
Paltenghi

7 By: /s/ Bruce C. Paltenghi

8 Bruce C. Paltenghi

9 Attorneys for Defendant McCorduck  
10 Properties Livermore, LLC

11  
12 **ORDER**

13  
14 The Case Management Conference scheduled for June 28, 2010 at 2:00 p.m. is continued to  
15 September 20, 2010 at 4:00 p.m. The Stipulation and Order entered by the Court on September 15,  
16 2008 remains in effect, including the stay on discovery.

17  
18 Dated: 6/25/2010

